

**MONEY TRANSMITTER TRANSACTION TAX**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen E. Sandstrom**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to revenue and taxation to enact the Money Transmitter Transaction Tax Act and to create a related income tax credit.

**Highlighted Provisions:**

This bill:

- ▶ enacts a nonrefundable individual income tax credit; and
- ▶ enacts the Money Transmitter Transaction Tax Act, including:
  - defining terms;
  - creating the Money Transmitter Transaction Tax Restricted Fund;
  - imposing the tax;
  - providing for collection and depositing of the revenue from the tax;
  - addressing distribution of money appropriated from the restricted account;
  - requiring the posting of notices; and
  - providing for recordkeeping.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill coordinates with H.B. 70, Illegal Immigration Enforcement Act, to make substantive amendments.

**Utah Code Sections Affected:**



28 AMENDS:

29 **59-10-1002.2**, as renumbered and amended by Laws of Utah 2008, Chapter 389

30 ENACTS:

31 **59-10-1025**, Utah Code Annotated 1953

32 **59-28-101**, Utah Code Annotated 1953

33 **59-28-102**, Utah Code Annotated 1953

34 **59-28-103**, Utah Code Annotated 1953

35 **59-28-201**, Utah Code Annotated 1953

36 **59-28-202**, Utah Code Annotated 1953

37 **59-28-203**, Utah Code Annotated 1953

38 **59-28-301**, Utah Code Annotated 1953

39 **Utah Code Sections Affected by Coordination Clause:**

40 **59-28-103**, Utah Code Annotated 1953



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **59-10-1002.2** is amended to read:

44 **59-10-1002.2. Apportionment of tax credits.**

45 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
46 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022,  
47 59-10-1023, [or] 59-10-1024, or 59-10-1025 may only claim an apportioned amount of the tax  
48 credit equal to:

49 (a) for a nonresident individual, the product of:

50 (i) the state income tax percentage for the nonresident individual; and

51 (ii) the amount of the tax credit that the nonresident individual would have been  
52 allowed to claim but for the apportionment requirements of this section; or

53 (b) for a part-year resident individual, the product of:

54 (i) the state income tax percentage for the part-year resident individual; and

55 (ii) the amount of the tax credit that the part-year resident individual would have been  
56 allowed to claim but for the apportionment requirements of this section.

57 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
58 59-10-1017, 59-10-1020, 59-10-1022, [or] 59-10-1024, or 59-10-1025 may only claim an

59 apportioned amount of the tax credit equal to the product of:

- 60 (a) the state income tax percentage for the nonresident estate or trust; and
- 61 (b) the amount of the tax credit that the nonresident estate or trust would have been
- 62 allowed to claim but for the apportionment requirements of this section.

63 Section 2. Section **59-10-1025** is enacted to read:

64 **59-10-1025. Nonrefundable tax credit for money transmitter transaction tax.**

65 (1) For a taxable year beginning on or after January 1, 2012, and except as provided in  
66 Section 59-10-1002.2, a taxpayer may claim a nonrefundable tax credit:

- 67 (a) as provided in this section;
- 68 (b) against taxes otherwise due under this chapter; and
- 69 (c) in an amount equal to the amount of tax the taxpayer pays under Chapter 28, Money  
70 Transmitter Transaction Tax Act, on a transfer transaction during the taxable year.

71 (2) A taxpayer:

72 (a) shall retain the following to establish the amount of tax the resident or nonresident  
73 individual paid under Chapter 28, Money Transmitter Transaction Tax Act, on the transfer  
74 transaction in Subsection (1)(c):

- 75 (i) a receipt;
- 76 (ii) an invoice; or
- 77 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
- 78 (b) may not carry forward or carry back a tax credit under this section.

79 (3) (a) In accordance with rules prescribed by the commission under Subsection (3)(b),  
80 the commission shall transfer at least annually from the Money Transmitter Transaction Tax  
81 Restricted Fund, created in 59-28-103, into the Education Fund an amount equal to the amount  
82 of tax credit claimed under this section.

83 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
84 commission may make rules providing procedures for making transfers required by Subsection  
85 (3)(a).

86 Section 3. Section **59-28-101** is enacted to read:

87 **CHAPTER 28. MONEY TRANSMITTER TRANSACTION TAX ACT**

88 **Part 1. General Provisions**

89 **59-28-101. Title.**

90 This chapter is known as the "Money Transmitter Transaction Tax Act."

91 Section 4. Section **59-28-102** is enacted to read:

92 **59-28-102. Definition.**

93 As used in this chapter:

94 (1) "Money transmitter" is as defined in 31 C.F.R. 103.11(uu)(5), except that it  
95 includes only a person who transfers funds through electronic means.

96 (2) "Restricted fund" means the Money Transmitter Transaction Fee Restricted  
97 Account created in Section 59-28-103.

98 (3) "Transaction tax" means the tax imposed under Section 59-28-201.

99 (4) "Transfer amount" means an amount of money transferred through electronic  
100 means for transmission or payment of money to a third party.

101 (5) "Transfer transaction" means the purchase of the service of a money transmitter  
102 transmitting money by electronic means to a third party.

103 Section 5. Section **59-28-103** is enacted to read:

104 **59-28-103. Money Transmitter Transaction Tax Restricted Fund.**

105 (1) There is created a restricted special revenue known as the "Money Transmitter  
106 Transaction Tax Restricted Fund."

107 (2) (a) The restricted fund shall consist of:

108 (i) money from the transaction tax collected under this chapter; and

109 (ii) interest earned on the restricted fund.

110 (b) The restricted fund shall earn interest. Interest earned on the restricted fund shall  
111 be deposited into the restricted fund.

112 (3) Money in the restricted fund shall be expended or distributed as follows:

113 (a) for fiscal year 2011-2012 only, the commission may retain the costs associated with  
114 developing the information technology necessary to implement this chapter;

115 (b) the commission may retain an administrative charge that is:

116 (i) a percentage of revenues the commission collects from the transaction tax not to  
117 exceed 1.50%; and

118 (ii) sufficient to cover the cost to the commission of administering the transaction tax;

119 (c) the commission shall transfer money from the restricted fund in accordance with  
120 Section 59-10-1025; and

121 (d) the commission shall distribute money in accordance with Section 59-28-203, to be  
122 used:

123 (i) by a county, city, or town to pay costs associated with law enforcement within the  
124 county, city, or town; and

125 (ii) by the multi-agency strike force created under Section 67-5-22.7 to pay costs  
126 incurred under Section 67-5-22.7.

127 Section 6. Section **59-28-201** is enacted to read:

128 **Part 2. Tax Imposition and Collection**

129 **59-28-201. Transaction tax imposed.**

130 On and after January 1, 2012, there is imposed as provided in this chapter a transaction  
131 tax on a transfer transaction in this state as follows:

132 (1) for a transfer amount equal or less than \$500, the transaction fee is \$5; and

133 (2) for a transfer amount greater than \$500, the transaction fee is 1% of the transfer  
134 amount.

135 Section 7. Section **59-28-202** is enacted to read:

136 **59-28-202. Collection of transaction tax -- Deposit of revenue.**

137 (1) A money transmitter shall:

138 (a) collect the transaction tax imposed by Section 59-28-201 from the person who  
139 purchases the transfer amount; and

140 (b) electronically remit and file the transaction tax collected under Subsection (1) with  
141 the commission:

142 (i) on a return prescribed by the commission;

143 (ii) (A) monthly on or before the last day of the month immediately following the last  
144 day of the previous month if the money transmitter is required to file a sales and use tax return  
145 with the commission monthly under Section 59-12-108 or is not required to file a sales and use  
146 tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

147 (B) quarterly on or before the last day of the month immediately following the last day  
148 of the previous quarter if the money transmitter is required to file a sales and use tax return  
149 with the commission quarterly under Section 59-12-108.

150 (2) The commission shall deposit revenue generated by the transaction tax imposed by  
151 this chapter into the restricted fund.

152 Section 8. Section **59-28-203** is enacted to read:

153 **59-28-203. Distribution of money in restricted fund.**

154 (1) The money deposited into the restricted fund shall be distributed as provided in  
155 Subsection (2) after:

156 (a) for fiscal year 2011-12 only, the commission retains the costs associated with  
157 developing the information technology necessary to implement this chapter;

158 (b) the commission retains the administrative charge described in Subsection  
159 59-28-103(3)(b); and

160 (c) the commission makes the transfers in accordance with Section 59-10-1025.

161 (2) On July 15 of each year, the commission shall distribute the amount remaining in  
162 the restricted fund as follows:

163 (a) the commission shall distribute 25% of the amount to counties, with each county  
164 distributed an amount on the basis of the percentage that the population of the county bears to  
165 the total population of all counties in the state;

166 (b) the commission shall distribute 50% of the amount to cities and towns, with each  
167 city or town distributed an amount on the basis of the percentage that the population of the city  
168 or town bears to the total population of all cities or towns in the state; and

169 (c) the commission shall distribute 25% of the amount to the multi-agency strike force  
170 created in Section 67-5-22.7.

171 (3) (a) For purposes of this section, the commission shall use population figures that  
172 are based on the most recent official census or census estimate of the United States Census  
173 Bureau.

174 (b) If a needed population estimate is not available from the United States Census  
175 Bureau, population figures shall be derived from the estimate from the Utah Population  
176 Estimates Committee created by executive order of the governor.

177 (c) The population of a county for purposes of this section shall be determined solely  
178 from the unincorporated area of the county.

179 Section 9. Section **59-28-301** is enacted to read:

180 **Part 3. Operational Requirements on Money Transmitter**

181 **59-28-301. Notice of tax credit.**

182 (1) A money transmitter shall post in a conspicuous location on its premises that can be

183 viewed by a person seeking a transfer transaction a notice that:

184 (a) is in a form prescribed by the commission by rule made in accordance with Title  
185 63G, Chapter 3, Utah Administrative Rulemaking Act; and

186 (b) notifies the person seeking a transfer transaction that the person may be eligible for  
187 an income tax credit under Section 59-10-1025.

188 (2) If a money transmitter sells a transfer transaction through electronic means, the  
189 money transmitter shall provide the notice required by Subsection (1) to the person seeking the  
190 transfer transaction:

191 (a) in a conspicuous manner; and

192 (b) before the person enters the transfer transaction.

193 Section 10. **Coordinating H.B. 416 with H.B. 70 -- Substantive amendments.**

194 If this H.B. 416 and H.B. 70, Illegal Immigration Enforcement Act, both pass, it is the  
195 intent of the Legislature that the Office of Legislative Research and General Counsel, when  
196 preparing the Utah Code database for publication, modify Subsection 59-28-103(3)(d) to read:

197 "(d) the commission shall distribute money in accordance with Section 59-28-203, to  
198 be used:

199 (i) by a county, city, or town to pay costs associated with implementing Title 76,  
200 Chapter 9, Part 10, The Illegal Immigration Enforcement Act; and

201 (ii) by the multi-agency strike force created under Section 67-5-22.7 to pay costs  
202 incurred under Section 67-5-22.7."

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**Legislative Review Note**  
as of 2-17-11 7:09 PM

**Office of Legislative Research and General Counsel**